IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 1998 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29/10/2004 in W.P. No.23196 OF 2003 on the file of the High Court.)

Between:

1 S. Purushotham, S/o Venkata Rangaiah,
2 S. Tirupathi Rao, S/o Venkata Rangaiah,
3 S. Venkateswarlu, S/o Radhakrishna,
4 S. Balakrishna, s/o Ramabhadram,
5 S. Radhakrishnaiah, s/o Tirupathi,
6 S. Venkataiah, S/o Tirupathi,
7 S. Nityanadha Sriramulu, S/o Chalapathi,
8 S. Lakshmipathi Rao, S/o Chalapathi,
9 M. Eswaraiah, S/o Chenchaiah,
10 M. Chenchaiah, s/o Chenchaiah,
11 S. Chenchamma, S/o Peda Subbarayudu,
12 S. Ragendra Prasad, S/o S. Venkatakrishnaiah,
13 S. Srinivasa Rao, s/o Chalapathi,
14 S. Nagamurali, S/o Venkata Rangaiah,

(All are Originally residents of Madhavaram (V), Vontimitta (M), Cuddapah District, now residing at Venkatagiri V & M, Nellore District).

..... APPELLANTS

AND

1 The Special Deputy Collector & Land Acquisition Officer,

Somasila Project/Telugu Ganga Project, Nellore,
Nellore District.
2 The Special Deputy Collector, Land Acquisition Officer,

Somasila Project/Telugu Ganga Project, Rajampet,
Cuddapah District.
3 The District Collector, Cuddapah, Cuddapah District.

.....RESPONDENTS

Counsel for the Appellant :Sri G. KRISHNA MURTHY

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court, at the stage of admission, made the following :

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ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

Fourteen petitioners - appellants have approached this court and challenged the action of respondents in not referring their applications stated to have been filed under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'), as illegal, arbitrary and seek further direction to the respondents to refer their cases to the court for determination of the amount of compensation in accordance with law.

Learned single Judge by the impugned order dismissed the writ petition on the ground of delay and laches. Facts in brief are that for the purpose of construction of Somasila Project/Telugu Ganga Project, lands were acquired under the provisions of the Act. Award No.3 of 1986 was passed on

07th September, 1986 and Award No.20 of 1986 was passed on 30th October, 1986. Petitioners – appellants were stated to have filed applications on 02nd November, 1986 before the first and second respondents under Section 18 of the Act, complaining that compensation offered to them was inadequate and the matter be referred to the court for determination of the amount of compensation. Their grievance is that applications were received on 03rd November, 1986, but no action thereafter was taken to have the matter referred to court despite representations. Petitioners have placed reliance on one of the representations dated 11th December, 2002.

Affidavit in reply was filed by Special Deputy Collector (LA) SSP Unit IV, Rajampet, Kadapa district, on behalf of respondents, opposing the writ petition denying that the applications were ever filed by the petitioners seeking reference. It was also denied that petitioners ever made any further representations. Learned single Judge took note of these facts and then observed that the petitioners had not properly explained the delay and laches in approaching the court when their lands were acquired 17 years ago, and proceeded to dismiss the writ petition on the

ground of delay and laches.

In appeal, the grievance of appellants is that though in the counter affidavit it was stated that neither any application under Section 18 of the Act was received from the petitioners nor any representation was received, the learned single Judge had called for the record and found endorsements in the register about receipt of the applications. In addition, petitioners had placed reliance on two documents showing the acknowledgment of respondents in having received the applications on

03rd November, 1986 and two postal receipts in proof of the fact that in the year 2002, a representation was sent. In this view of the matter, we had called upon the learned Government Pleader for Land Acquisition to produce before us relevant record, pertaining to the applications, maintained in the respondents' office.

Writ petitioners – appellants had appended to the writ petition two documents; under the first document, 48 applications and under the second document, 68 applications under Section 18 of the Act were received in the office of the Special Deputy Collector, Telugu Ganga Project, Nellore. The said documents contained the serial numbers, particulars of the structures/land, names of applicants and their particulars. Along with the representation, which was sent on 11th December, 2002, particulars of the petitioners' land and the amount of compensation fixed by the Land Acquisition Officer with respect to 14 petitioners were stated. For our perusal, one register from the office of the Special Deputy Collector, Land

Acquisition, Telugu Ganga Project, Nellore, was produced pertaining to Reach Nos.13 to 19. This register does contain particulars of the applications received on 03rd November, 1986 in respect of Reach No.17. As regards Reach No.5, which is the subject-matter of other award, learned Government Pleader for Land Acquisition stated that the register does not contain any entry regarding receipt of the applications. The register with respect to Reach Nos. 13 to 19 appears to have been maintained meticulously, but the register produced for our perusal with respect to Reach No. 5 is not so meticulously maintained. But, the register relating to Reach No.5 is only of the references made to the court, and not of the applications received, whereas the other register for Reach

Nos. 13 to 19 is about the applications received in the office for referring the matter to the court.

In the circumstances aforementioned, there is no reason why writ petitioners - appellants version be disbelieved, more particularly in view of the endorsements made under two documents produced in court, which have not been specifically denied by the respondents. In case such applications were received, there is no reason why there will be no decision taken thereupon for referring the matter to the court. Applications received have to be dealt with in accordance with law. In case they were in order, references ought to have been made to the court. We, thus, hold that petitioners did make applications within the period of limitation for making the reference to the court and reference ought to have been made to the court for determination of the amount of compensation. Because of the inaction on

the part of the respondents, petitioners cannot be made to suffer and they cannot be non-suited though there is delay in approaching this court. Once the respondents have acquired the land, the respondents are bound to pay the amount of compensation in accordance with law, and in case a request is made by the aggrieved persons when they are not satisfied with the amount of compensation, the respondents are bound to make reference. Respondents having failed in their obligation in not making the reference, petitioners – appellants could not have been made to suffer for their lapse and for that reason, the writ petition could not have been dismissed on the ground of delay and laches.

Consequently, we allow the writ appeal and set aside the impugned order and direct the respondents to forward the references to the court in accordance with law within a period of two months from the date of receipt of the order from the court with due intimation to the petitioners.

DEVINDER GUPTA, C.J.

M. NARAYANA REDDY, J

20.01.2005

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To,

1 The Special Deputy Collector & Land Acquisition Officer, Somasila Project/Telugu Ganga Project, Nellore, Nellore District.
2 The Special Deputy Collector, Land Acquisition Officer, Somasila Project/
Telugu Ganga Project, Rajampet, Cuddapah District.
3 The District Collector, Cuddapah, Cuddapah District.

4 2 CCs to G.P. for Land Acquisition, High Court buildings, Hyderabad (OUT).

5. 2 CD copies.